

**ESCROW ADVISORY COMMITTEE MEETING**  
**June 16, 2015**

**Department of Business Oversight Represented By:**

Richard Malme, Special Administrator  
Mona Elsheikh, Special Administrator  
Ann Davila, Escrow Licensing Specialist  
Beatriz Orellana, Executive Secretary

**Committee Members Present:**

Jennifer Woodard, Oak Escrow Inc., Chairperson EAFC\* (Via Phone)  
Nancy Silberberg, Altus Escrow Inc., Chairperson EIC\*\*  
Paula Franks, Advantage One Escrow, Inc. – Past Chairperson EIC\*\*  
Jeff Behm, Behm and Company, An Accountancy Corp. - CPA  
Steven Garcia, Law Office of Steven Ray Garcia - Attorney  
Leslie Sapone, Traditional Escrow, Inc. – Medium Sized Company (Via Phone)  
Heidi Birenbaum Cassel, FNF Escrow Holdings - Other Business Ownership  
Michael Culver, Elance Escrow Corporation – Business Specialization

**Committee Members Absent:**

Ginger Frankel, Mara Escrow Inc., Vice Chairperson EAFC\*  
Dave Brooks, Seright Escrow - Small Business

\*EAFC – Escrow Agents' Fidelity Corporation

\*\*EIC – Escrow Institute of California

**1. Opening Remarks**

Richard Malme opened the meeting by thanking everyone for coming and introduced Mona Elsheikh, Ann Davila and Beatriz Orellana who will be taking minutes in the future.

**2. Review and Approval of the Minutes of Last Meeting**

Richard gave the committee a few moments to review the minutes. Nancy Silberberg pointed out a couple of corrections related to item 5.c., namely, that there will no longer be a HUD 1 form for residential escrows and that traditional closing statements will continue show date of recordation. Corrections were noted by Richard. Paula Franks then made a motion to have the minutes approved and Heidi Birenbaum Cassel seconded the motion; the minutes were approved.

**3. Rulemaking Update: Proposed Revisions to Section 1741.5 – Status of public comment process and committee input**

Richard stated that the Department believed it had received all of the committee's and CPAs' input regarding the proposed revisions to CCR section 1741.5, and the Department had taken all into consideration, including comments from CalCPA, all other CPA's and the EIC. Richard stated that date of commencement would be likely in 2017, if approved.

**4. Topics for Discussion**

**a. Update on EIC vetting request**

Nancy Silberberg had requested an update on this matter. Richard stated that he had spoken to Legal regarding her request and that it is anticipated that an update would be issued within 30 days.

**5. New Business**

**a. Discuss proposed changes to the Annual Assessment**

Richard explained that the Commissioner had had a meeting with EIC and as a result, the Commissioner agreed EIC could set up a workgroup for consultation on the assessment change proposal. The current methodology on the assessment is over 10 years old. The assessment does not cover the cost of the Escrow Program and needs to be increased. The Department is working to ensure that the assessment is fair and equitable for all companies. Currently the Department is preparing an analysis with proposed changes. The EIC has submitted names of four members from the industry to participate in the workgroup. The Department requested an additional member who represents large companies. The EIC will research this and submit one additional nominee.

**b. Capital requirements under Section 17210 (FC)**

Jeff Behm wanted a quick clarification on this matter. He stated that deferred income taxes payable (timing differences) belong in the long term liability category. Richard stated that he wanted documentation to support this conclusion.

**6. Enforcement Actions and licensing update (R. Malme)**

Richard distributed the handout showing the latest administrative actions and licensing statistics. There were numerous Enforcement Actions listed on the handout. Some were ongoing actions. Richard stated that most of the companies listed as "Revoked" at the bottom of the list were closed companies and had failed to pay their 2014 assessment.

Currently, there are 17 new main pending applications, 18 new branch applications, and about 18 change of ownership applications.

## **7. Public Comments**

A question was posed as to who could be a member of the workgroup for the assessment change. Richard stated that the Commissioner requested the EIC to choose the members. Any interested party should contact EIC.

Another question was posed regarding how the Department handles companies that surrender their licenses but still owe funds to the Department. Richard stated that this was handled on a case by case basis. For all regulatory exam expenses due, however, the Department files against the company's surety bond for collection.

Steven Garcia briefly discussed a case regarding attorney fees that was favorable to escrow companies.

Nancy Silberberg expressed her concern over what examiners will be looking for in the escrow files pertaining to the new Consumer Financial Protection Bureau (CFPB) requirements. She stated that there were certain disclosure documents that are not prepared by lenders, not escrow companies. She expressed that escrow companies are reluctant to prepare certain closing/disclosure documents because of the concern that they are then accepting the liability if something is not correct. CFPB penalties begin at \$5,000 a day. Most big lenders are preparing these documents. Richard stated that the Department and the industry will be working together through these new requirements to insure compliance.

Heidi Birenbaum Cassel inquired what the Department's position was regarding the Clean Desk Policy and if the Department was making any requests like security cameras, alarms, blacked out windows, etc. Richard stated that it was up the company's management to make these decisions.

## **8. Committee Openings for September 2015**

Richard stated that there will be three openings on the committee in September. The openings are for an attorney, a medium sized company, and a company that has a business specialization (e.g., internet company, joint control company, and company that specializes in bulk sales, etc.). An emailed notice is expected to go out on July 1, 2015 and the cut-off for submission will be July 31, 2015. Interested parties should submit letters of qualifications and/or resumes to Richard. The Commissioner will make the Selections. .

## **9. Closing Remarks**

Richard thanked everyone for coming.

The meeting adjourned at 11:00 a.m. The next meeting is tentatively scheduled for Tuesday, September 15, 2015.